



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 5049-99

9 December 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 22 May 1967 at age 17. Prior to the offenses for which you received a bad conduct discharge, you received six nonjudicial punishments and were convicted by two summary courts-martial. The offenses included unauthorized absences totalling 29 days, sleeping on post, absence from appointed place of duty, disrespect on three occasions, failure to obey a lawful order on three occasions, and possession of marijuana.

A special court-martial convened on 8 December 1969 and found you guilty of an unauthorized absence of 29 days and communicating a threat in a combat zone. The court sentenced you to confinement at hard labor for four months, forfeitures of \$80 per month for four months, and a bad conduct discharge. Subsequently, you received three more nonjudicial punishments and were convicted by another summary court-martial and a second special court-martial. The offenses included assault, two instances of disrespect, willful disobedience of a lawful order on four occasions, and unauthorized absences totalling 43 days.

On 9 April 1971 the convening military authority reversed the conviction of "communication of a threat" from the 8 December 1969 special court-martial and returned the case for reassessment of the sentence.

A third special court-martial convened on 23 April 1971 and found you guilty of unauthorized absences totalling 23 days, possession of marijuana, willful disobedience of a lawful order, disrespect, and assault on two occasions. The court sentenced you to confinement at hard labor for five months, forfeitures of \$75 per month for five months, and a bad conduct discharge.

On 10 June 1971 the sentence of the 8 December 1969 special court-martial was reassessed and the bad conduct discharge was remitted. Subsequently, the sentence to a bad conduct discharge adjudged at the 23 April 1971 court-martial was approved and ordered executed. You were so discharged on 17 January 1972.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to your frequent misconduct, especially the unauthorized absences totalling nearly four months and possession of drugs. Based on the foregoing, the Board concluded that no change to the discharge is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director